

Further support is found in the drawings (FIG. 2), wherein the drug-containing coat is depicted applied to, in contact with, covering, over or adjacent the inert polymer coat.

REMARKS

Applicants request withdrawal of the finality of the Office Action, as the claims have been amended as agreed to by Examiner to place them in form for allowance, and the required Terminal Disclaimers have been filed.

Applicants acknowledge with appreciation the courtesies extended during the interview conducted February 9, 2005 between Examiner Channavajjala, Primary Examiner Kishore, Dr. Glenn Meyer (Assignee's representative) and the undersigned and during the interview conducted March 11, 2005 between Examiner Channavajjala and the undersigned. The merits of the outstanding Office Action were discussed during the interviews. Agreement was reached as to the allowability of original claims 1-23 pending filing of terminal disclaimers as requested by Examiner. Agreement was also reached as to allowability of claims 24-36 and 38-55 pending filing of terminal disclaimers and amendment of claims 24-27, 36, 50, and 53 to distinguish more clearly from Ayer, which reference is of record. As agreed, an amendment conferring allowability to the claims would require that: 1) the instant drug-containing coat be "in contact with" or "applied to and covering" the instant inert polymer coat such that it is clear that the drug-containing coat covers the inert polymer coat; or 2) the term "comprising" in the preamble of independent claims 24-27, 36, 50 and 53 be changed to "consisting essentially of". Independent claims 24-27, 36, 50 and 53 have been amended as agreed and as indicated herein. All of the required terminal disclaimers are submitted herewith.

Claims 1-55 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 6,613,357 (the '357 Patent) and claims 1-38 of U.S. Patent No. 6,605,302 (the '302 Patent).

Terminal disclaimers referencing the '357 Patent and the '302 Patent have been filed herewith. Accordingly, Applicants respectfully submit that these rejections have been overcome and request that they be withdrawn.

During the interview of March 11, 2005, Examiner indicated it would necessary to submit additional terminal disclaimers referencing U.S. Patents No. 6,599,532, No. 6,599,284, No. 6,569,456, No. 6,521,255, and No. 6,491,949, all of which are assigned to Osmotica Corp., the

current assignee of the instant reissue application and parent patent, and all of which have J. Faour as a named inventor. Applicants hereby submit these additional terminal disclaimers.

During the interview of March 11, 2005 Examiner also indicated it would be necessary to submit additional terminal disclaimers referencing pending U.S. patent applications No. 10/733,156 filed Dec. 11, 2003, No. 10/851,866 filed May 21, 2004, and No. 10/377,173 filed Feb. 26, 2003, all currently pending applications which are also owned by Osmotica Corp. and for which J. Faour is a named inventor.

Claims 24-35 and 40-55 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. 4,576,604 to Guittard et al. in view of U.S. 4,200,098 to Ayer et al. Insofar as it may apply to the present claims, this rejection is traversed.

As agreed to during the interview of February 9, 2005, Guittard et al. only discloses a preformed passageway (portal) that is formed after all laminas/coats have been placed around the osmotic device. Thus, the prophetic combination of Ayer et al. with Guittard et al. will result in a prophetic osmotic device wherein the preformed passageway passes through all of the laminas/coats of the prophetic osmotic device. The inert coat in the prophetic device would not plug the preformed passageway in the semipermeable membrane. Even so, Examiner indicated that the claim language of claims 24-36 and 38-55 might be construed to permit a microporous lamina between the instant external drug-containing coat and the instant inert coating, thereby potentially reading upon the prophetic osmotic device resulting from the combination of Guittard et al. and Ayer et al. As agreed during the interview of March 11, 2005, Applicants have amended claims 24-27, 36, 50 and 53 to require that the drug-containing coat be “applied to and covering” the instant polymer coat thus clarifying that the drug-containing coat is “in contact with” the instant inert polymer coat. Support for this subject matter is found in the examples and FIG. 2 of the issued parent patent, as indicated above. Specifically, the processes detailed in the example require that the drug-containing coat be applied to cover the inert polymer coat. As a result, the drug-containing coat is in contact with or adjacent the inert polymer coat.

Accordingly, Applicants respectfully submit that this rejection has been overcome and request that it be withdrawn.

Reconsideration of the claims as presented herein is respectfully requested.

Applicants have made a diligent effort to advance the prosecution of the application by presenting an “Amendments to the Claims” and by filing terminal disclaimers as requested.

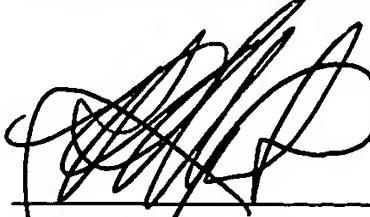
AMENDMENT AFTER FINAL
REISSUE APPLICATION

Docket No. PHUS-7

A fourth Supplemental Declaration and Power of Attorney form is enclosed herewith.

In view of the above, applicants submit that the claims are in form for allowance. An early notice of allowance thereof is requested.

Respectfully submitted,



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